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Attorney for Sean Daniel Schrader

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF OREGON

In re

Sean Daniel Schrader,

Debtor.

Vincent Wurster, an individual and  
Tina Elston, an individual,

Plaintiff.

vs.

Sean Daniel Schrader,

Defendant.

Chapter 13

Case No. 17-30928-dwh13

Adversary Proceeding  
No. 17-03086-dwh

DEFENDANT'S CONCISE STATEMENT OF  
FACTS IN SUPPORT OF SUMMARY  
JUDGMENT OF DISMISSAL OF PLAINTIFF'S  
COMPLAINT

COMES NOW Defendant above-named, by Laura L. Donaldson, his attorney, and provides the following concise statement of facts in support of Defendant's Motion for Summary Judgment of Dismissal of Plaintiff's Complaint.

CONCISE STATEMENT OF FACTS

1. Defendant filed a Chapter 13 bankruptcy petition on March 16, 2017.
2. On March 19, 2017, the Clerk of the Court issued its notice to parties in interest designating a hearing and examination of the Chapter 13 debtor pursuant to §341(a). A copy of such §341(a) notice is attached hereto and incorporated herein by reference (Exh. A).

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Portland, OR 97201  
(503) 227-3004

3. Plaintiffs Vincent Wurster and Christine (Tina) Elston and their counsel, Mr. Eric Helmy were duly scheduled as claimholders in Defendant's bankruptcy petition. (BNC Notice, Exh. B) Defendant listed the debts to Wurster and Elston as disputed. They received both constructive and actual notice of the above-referenced Clerk's notice, which part relevant to this Motion set June 12, 2017 as the last day upon which a party in interest could commence an action challenging the Debtor's right to a discharge under §1328(f) or to dischargeability of certain debts by filing a Complaint for such relief with the bankruptcy clerk's office.

4. On April 25, 2017, Counsel for Plaintiffs objected to confirmation of Defendant's Chapter 13 Plan (Dkt No. 14). This Court denied the objection and granted confirmation entering the Order Confirming Plan on May 4, 2017 (Dkt No. 17).

5. The records of the Bankruptcy Court evidence that Plaintiff's complaint was filed on July 10, 2017. A copy of page 1 of Plaintiff's Complaint, which carries the court docket date of July 10, 2017 (Dkt. 21), is attached hereto and incorporated herein by this reference (Exh.C).

6. The Court's docket for this adversary proceeding further evidences the initial filing of Plaintiff's Complaint on July 10, 2017. A copy of such is attached hereto and incorporated herein by reference. (Exh. D)

7. Defendant filed and served his Answer to the Complaint, which incorporated his affirmative defense based on Plaintiffs untimely commencement of this adversary proceeding.

8. Plaintiffs have not sought an extension pursuant to Bk. Rules 4004 or 4007( c) of the time limit for commencement of this adversary proceeding. Plaintiffs' also failed to appear at the designated pre-trial conference or otherwise communicate with this Court to discuss furtherance of their position with respect to the Complaint.

9. Plaintiffs' adversary proceeding is untimely. There have been no facts or circumstances presented to this Court which would mitigate such untimely commencement, and

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Portland, OR 97201  
(503) 227-3004

that Plaintiffs' Complaint must be dismissed as a matter of law.

DATED this 30<sup>th</sup> day of August, 2017.

/s/ Laura L. Donaldson  
Laura L. Donaldson, OSB# 022930  
Attorney for Defendant

<b>Information to identify the case:</b>			
Debtor 1:	Sean Daniel Schrader		Social Security number or ITIN: xxx-xx-1944
	First Name	Middle Name	Last Name
Debtor 2:			Social Security number or ITIN: _____
(Spouse, if filing)	First Name	Middle Name	Last Name
United States Bankruptcy Court:	District of Oregon		EIN: _____
Case number:	17-30928-dwh13		Date case filed for chapter: 13 3/16/17

## Official Form 309I

### Notice of Chapter 13 Bankruptcy Case

12/15

For the debtors listed above, a case has been filed under chapter 13 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors, debtors, and trustees, including information about the meeting of creditors and deadlines. Read all pages carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtors, the debtors' property, and certain codebtors. For example, while the stay is in effect, creditors cannot sue, garnish wages, assert a deficiency, repossess property, or otherwise try to collect from the debtors. Creditors cannot demand repayment from debtors by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although debtors can ask the court to extend or impose a stay.

Confirmation of a chapter 13 plan may result in a discharge. Creditors who assert that the debtors are not entitled to a discharge under 11 U.S.C. § 1328(f) must file a motion objecting to discharge in the bankruptcy clerk's office within the deadline specified in this notice. Creditors who want to have their debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office by the same deadline. (See line 13 below for more information.)

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at [www.pacer.gov](http://www.pacer.gov)).

The staff of the bankruptcy clerk's office cannot give legal advice.

To help creditors correctly identify debtors, debtors submit full Social Security or Individual Taxpayer Identification Numbers, which may appear on a version of this notice. However, the full numbers must not appear on any document filed with the court.

Do not file this notice with any proof of claim or other filing in the case. Do not include more than the last four digits of a Social Security or Individual Taxpayer Identification Number in any document, including attachments, that you file with the court.

	About Debtor 1:	About Debtor 2:
1. Debtor's full name	Sean Daniel Schrader	
2. All other names used in the last 8 years	fdbi Premiere Motors	
3. Address	1845 SE Alder St. Hillsboro, OR 97123	
4. Debtor's attorney Name and address	LAURA L DONALDSON 1975 SW 1st Ave #H Portland, OR 97201	Contact phone (503) 227-3004
5. Bankruptcy trustee Name and address	Wayne Godare 222 SW Columbia St #1700 Portland, OR 97201	Contact phone (503) 972-6300
6. Bankruptcy clerk's office Documents in this case may be filed at this address. You may inspect all records filed in this case at this office or online at <a href="http://www.pacer.gov">www.pacer.gov</a> .	1001 SW 5th Ave #700 Portland, OR 97204	Office Hours 9:00 a.m. - 4:30 p.m. Contact phone 503-326-1500 Date: 3/17/17

For more information, see pages 2 & 3



Exh. A - Page 2 of 3

<b>14. Notice of Proposed Dismissal of Case</b>	This case may be dismissed without further prior notice if (1) all plan payments are not current, (2) the debtors fail to complete the meeting of creditors set above, or (3) the debtors fail to timely file any documents and/or make fee payments as ordered by the Court, unless within 21 days of the date in line 6 either the debtor or trustee files a written objection to dismissal, setting forth specific grounds, and sends a copy to the non-filing party (i.e., debtors or trustee).
<b>15. Objection to Confirmation</b>	A creditor wanting to object to any provision of the debtors' plan must file a written objection with the Court showing service on the debtors within 14 days after the meeting of creditors concludes. Filing a proof of claim rejecting the plan, or motion for relief from the automatic stay, will not be considered an objection to the confirmation. See Local Bankruptcy Rule 3015-3(c) for additional details concerning confirmation of Chapter 13 plans.
<b>16. Court Information and Legal Advice</b>	Court Information is available at <a href="http://www.orb.uscourts.gov">www.orb.uscourts.gov</a> . For account numbers, etc. contact the debtor's attorney. Contact your own attorney with other questions and to protect your rights. The clerk's office staff is forbidden by law from giving legal advice.
Official Form 309I Notice of Chapter 13 Bankruptcy Case page 3	



United States Bankruptcy Court  
District of Oregon

In re:  
Sean Daniel Schrader  
Debtor

Case No. 17-30928-dwh  
Chapter 13

**CERTIFICATE OF NOTICE**

District/off: 0979-3

User: Admin.  
Form ID: 309I

Page 1 of 2  
Total Noticed: 19

Date Rcvd: Mar 17, 2017

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Mar 19, 2017.

db +Sean Daniel Schrader, 1845 SE Alder St., Hillsboro, OR 97123-4928  
tr +Wayne Godare, 222 SW Columbia St #1700, Portland, OR 97201-6652  
smg +Dept of Justice, Division of Child Support, Attn: Bankruptcy Unit, POB 14670,  
Salem, OR 97309-5013  
smg +US Attorney General, Department of Justice, 10th & Constitution NW,  
Washington, DC 20530-0001  
101412906 +Christine Elston, 10916 Mundy Loss Rd., Buckley, WA 98321-9471  
101412907 +Felicia Lee Schrader, 1845 SE Alder St., Hillsboro, OR 97123-4928  
101412909 +Internal Revenue Service, Billy J. Williams, US District Attorney of Oregon,  
1000 SW 3rd Avenue, #600, Portland, OR 97204-2936  
101412911 +Mesa Clinical Labs, PO Box 1517, Pendleton, OR 97801-0410  
101412912 +Mr. Eric Helmy, c/o NW Business Law LLC, 777 NW Wall St. #302, Bend, OR 97703-2760  
101412913 +NW Acute Care Specialists, PO Box 4979, Portland, OR 97208-4979  
101412915 +Vincent Wurster, 10916 Mundy Loss Rd., Buckley, WA 98321-9471

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.  
aty E-mail/Text: laura@kunidonaldson.com Mar 18 2017 00:47:37 LAURA L DONALDSON,  
1975 SW 1st Ave #H, Portland, OR 97201  
smg EDI: ORREV.COM Mar 18 2017 00:33:00 ODR Bkcy, 955 Center NE #353, Salem, OR 97301-2555  
smg +E-mail/Text: usaor.bankruptcy@usdoj.gov Mar 18 2017 00:48:15 US Attorney, US Attorney,  
1000 SW 3rd Ave #600, Portland, OR 97204-2936  
ust +E-mail/Text: ustregion18.pl.ecf@usdoj.gov Mar 18 2017 00:47:53 US Trustee, Portland,  
620 SW Main St #213, Portland, OR 97205-3026  
101412905 EDI: RMSC.COM Mar 18 2017 00:33:00 Care Credit, c/o Synchrony Bank, PO Box 965035,  
Orlando, FL 32896-5035  
101412908 +EDI: IRS.COM Mar 18 2017 00:33:00 Internal Revenue Service, Caroline D. Ciolo,  
US Attorney General, 950 Pennsylvania Ave. NW, Washington, DC 20530-0009  
101412901 EDI: ORREV.COM Mar 18 2017 00:33:00 Oregon Department of Revenue, Attn: Bankruptcy Unit,  
955 Center St NE #353, Salem, OR 97301-2555  
101412914 E-mail/Text: bankruptcynotifications@unitusccu.com Mar 18 2017 00:47:42  
Unitus Community Credit Union, c/o Steven Stapp, Pres./CEO, 1300 SW 6th Ave.,  
Portland, OR 97201

TOTAL: 8

\*\*\*\*\* BYPASSED RECIPIENTS (undeliverable, \* duplicate) \*\*\*\*\*  
101412902\* ++INTERNAL REVENUE SERVICE, CENTRALIZED INSOLVENCY OPERATIONS, PO BOX 7346,  
PHILADELPHIA PA 19101-7346  
(address filed with court: Internal Revenue Service, Special Procedures M/S 0240,  
1220 SW Third Ave., Ste G-044, Portland, OR 97204-2871)  
101412903\* ++INTERNAL REVENUE SERVICE, CENTRALIZED INSOLVENCY OPERATIONS, PO BOX 7346,  
PHILADELPHIA PA 19101-7346  
(address filed with court: Internal Revenue Service, Special Procedures M/S 0240,  
1220 SW Third Ave., Ste G-044, Portland, OR 97204-2871)  
101412910\* +Internal Revenue Service, PO Box 7346, Philadelphia, PA 19101-7346  
101412904 ##+Balanced Healthcare Receivables, 141 Burke St., Nashua, NH 03060-4757

TOTALS: 0, \* 3, ## 1

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.  
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

Addresses marked '++' were redirected to the recipient's preferred mailing address  
pursuant to 11 U.S.C. 342(f)/Fed.R.Bank.PR.2002(g)(4).

Addresses marked '##' were identified by the USPS National Change of Address system as undeliverable. Notices  
will no longer be delivered by the USPS to these addresses; therefore, they have been bypassed. The  
debtor's attorney or pro se debtor was advised that the specified notice was undeliverable.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner  
shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social  
Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required  
by the bankruptcy rules and the Judiciary's privacy policies.

Date: Mar 19, 2017

Signature: /s/Joseph Speetjens

Eric Helmy  
NW Business Law LLC  
750 NW Charbonneau Dr., Suite 108  
Bend, OR 97701  
(503-224-9946  
[Eric@nwbizlaw.com](mailto:Eric@nwbizlaw.com)  
Counsel for Creditors VINCENT WURSTER and TINA ELSTON

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF OREGON

VINCENT WURSTER, an individual, and )	
TINA ELSTON, an individual, )	Case No. 17-30928-dwh13
)	
Creditors, )	
)	
v. )	COMPLAINT IN ADVERSARY FOR
)	DETERMINATION THAT DEBT IS
)	NON-DISCHARGEABLE
Sean Daniel Schrader, an individual, )	
)	
Debtor. )	
)	

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COME NOW Creditors Vincent Wurster and Tina Elston, by and through their attorney of record, and allege as follows:

**COMMON ALLEGATIONS**

- (1) This is an adversary proceeding to determine the dischargeability of a debt pursuant to Bankruptcy Rules 4007 and 7001(6).
- (2) The above named debtor, Debtor herein, filed a petition for relief under Chapter 13 of title 11, United States Code.
- (3) Debtor is indebted to Creditors in an amount to be determined at trial and/or in further proceedings by this Court, per appropriate discovery and expert testimony. To a substantial extent in an amount to be determined in further proceedings, this debt is founded upon a claim that is excepted from a discharge in bankruptcy. Said debt arose as a result of the facts alleged below:
- (4) Creditors Vincent and Christine Elston (individually and/or collectively "Creditors") are



**U.S. Bankruptcy Court  
District of Oregon  
Adversary Proceeding #: 17-03086-dwh**

Assigned to: Bankruptcy Judge David W Hercher

Date Filed: 07/10/17

Lead BK Case: 17-30928

Lead BK Title: Sean Daniel Schrader

Lead BK Chapter: 13

Demand:

Nature[s] of Suit: 67 Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny  
68 Dischargeability - 523(a)(6), willful and malicious injury

**Plaintiff**

**Christine Elston**  
10916 Mundy Loss Rd.  
Buckley, WA 98321  
United States  
253-332-5493  
SSN / ITIN: xxx-xx-9004

represented by **ERIC HELMY**  
NW Business Law LLC  
777 NW Wall St No. 302  
Bend, OR 97701  
503-224-9946  
Email: [eric@nwbizlaw.com](mailto:eric@nwbizlaw.com)  
**LEAD ATTORNEY**

**Plaintiff**

**Vincent Wurster**  
10916 Mundy Loss Rd.  
Buckley, WA 98321  
United States  
253-332-5493  
SSN / ITIN: xxx-xx-5890



represented by **ERIC HELMY**  
(See above for address)  
**LEAD ATTORNEY**

V.

**Defendant**

**Sean Daniel Schrader**  
27451 SE Fireman Way  
Boring, OR 97009  
SSN / ITIN: xxx-xx-1944

represented by **LAURA L DONALDSON**  
1975 SW 1st Ave #H  
Portland, OR 97201  
(503) 227-3004  
Email: [laura@kunidonaldson.com](mailto:laura@kunidonaldson.com)

Filing Date	#	Docket Text
07/10/2017	 <u>1</u> (5 pgs)	Adversary case 17-03086. Complaint by Christine Elston, Vincent Wurster against Sean Daniel Schrader. \$350 Filing Fee Paid. Nature of Suit:(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)),(68 (Dischargeability - 523(a)(6), willful and malicious injury))(HELMY, ERIC) (Entered: 07/10/2017)
07/11/2017	 <u>2</u> (3 pgs)	Summons Issued for service on Sean Daniel Schrader Date Issued 7/11/2017, Answer Due 8/10/2017 <u>1</u> Complaint Pre-Trial Hearing Set for 08/29/2017 at 10:00 AM by Telephone Hearing. Scheduling Order due 09/1/2017. (lew) (Entered: 07/11/2017) D - Page 1 of 1